

RESOLUTION NO. 2018-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 5, 2018, FOR THE PURPOSE OF SUBMITTING A COMMERCIAL CANNABIS BUSINESS TAX TO THE ELECTORATE

WHEREAS, Section 1001 of the City Charter authorizes the City Council to call a special municipal election; and

WHEREAS, pursuant to Section 9222 of the California Elections Code the City may submit an Ordinance directly to the voters at a special municipal election; and

WHEREAS the City of Merced needs additional sources of locally controlled funding; and

WHEREAS a majority of residents in the City of Merced believe that crime in the City has generally increased over the last few years; and

WHEREAS, California and Merced County voters enacted Prop 64 to legalize marijuana cultivation, manufacturing, and distribution, giving cities the choice to allow commercial cannabis businesses to operate within their boundaries; and

WHEREAS, the Merced City Council has elected to do so, enacting an ordinance allowing no more than 4 dispensaries at any given time, including one medical dispensary; and

WHEREAS, the Merced City Council has enacted stringent regulations to ensure permitting to responsible businesses, enforcing code regulations, and protecting our public safety and children; and

WHEREAS these regulations include the creation of “safety zones” preventing cannabis businesses near day care centers, youth centers, schools, libraries, or public parks; and

WHEREAS the City Council believes that the cannabis industry must pay its fair share for the right to conduct business within our City; and

WHEREAS the City's regulatory fees and the tax proposed by this resolution will ensure that the industry pays to support essential services our residents rely on and to protect our public safety; and

WHEREAS no users or medical patients will pay the City's fees or taxes – only those who engage in business in the cannabis industry and/or services pay; and

WHEREAS the proposed measure, along with previously adopted local regulations, will permit safe access to cannabis medicine for cancer patients and other types of medical patients; and

WHEREAS the proposed measure, along with previously adopted local regulations, will permit access to safe and well-regulated adult-use cannabis; and

WHEREAS the proposed measure will provide funding than can be used to enhance and improve public safety services, including maintaining fire protection services, maintaining and improving 9-1-1 emergency response times; and

WHEREAS the proposed measure would provide local funding for police services such as maintaining local neighborhood police patrols, protecting and maintaining 9-1-1 emergency police responses, and retaining qualified police officers; and

WHEREAS this measure includes strict fiscal accountability provisions, including annual financial audits, a citizen's oversight committee, and all funds spent only in the City of Merced for local benefit; and

WHEREAS this measure would generate locally-controlled revenue that cannot be taken by the State or Federal governments and must be used only in the City of Merced on local public safety needs and to maintain our services and financial stability; and

WHEREAS, the City Council also desires to submit to the voters, for their consideration at the special election, a special tax measure relating to a special tax on commercial cannabis businesses operating in the City of Merced; and

WHEREAS, the tax provided by the proposed Ordinance shall be enacted solely to raise revenue for specific purposes and shall be used exclusively to fund local police and fire protection services and parks and recreation services; and

WHEREAS, the City Council of the City of Merced desires to create a new Merced Municipal Code Section 3.52 to impose business taxes for the commercial cannabis businesses as follows: Cannabis Cultivation, Cannabis Nurseries, Cannabis Manufacturing, Cannabis Medicinal and Adult-Use Retail, Cannabis Distribution, and Cannabis Testing where permissible by state and local law; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to Section 1000, 1001, and 1004 of the City Charter, a special municipal election shall be, and is hereby ordered to be, held in and for the City of Merced on Tuesday, June 5, 2018, at which election there shall be submitted to the qualified voters an ordinance imposing a special tax on commercial cannabis businesses in the City of Merced (the "Measure").

SECTION 2. The question to appear on the ballot shall be as set forth in Exhibit "A".

SECTION 3. The text of the ordinance to be submitted to the voters is attached hereto as Exhibit "B".

SECTION 4. The ballots to be used at the election shall be in form and content as required by law.

SECTION 5. The Commercial Cannabis Business Tax is enacted solely to raise revenue for specific governmental purposes for the City of Merced and not for purposes of regulation. All of the proceeds from the tax imposed by this Ordinance shall be used exclusively to fund local police and fire protection services and parks and recreation services and cannot be spent for any other purpose.

SECTION 6. The tax ordinance requires a two-thirds vote for approval.

SECTION 7. The proposed ordinance would impose a commercial cannabis business tax at a rate up to: 7% of gross receipts on medicinal retail, 10% of gross receipts on adult-use retail, \$25 per square foot on manufacturing, the greater of 10% or \$25 per square foot on cultivation, \$4 per square foot on nurseries, the greater of 10% or \$5 per square foot on distribution, and \$1 per square foot on testing with no expiration.

SECTION 8. The date for submission of primary arguments (in favor and against) is March 14, 2018; the date for submission of the City Attorney's impartial analysis of said Measure is hereby set for February 27, 2018; and the date for submission of rebuttal arguments to said primary arguments is set for March 23, 2018.

SECTION 9. Pursuant to the requirements in Elections Code Sections 9280 and 9282, the impartial analysis shall not exceed 500 words in length and the arguments shall not exceed 300 words in length.

SECTION 10. The City Attorney is directed to prepare all necessary documents and the City Attorney and City Clerk are directed to take all further actions necessary for purposes of this election, including the preparation of an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure.

SECTION 11. The City Clerk is directed to Elections Code Sections 9283 and 9287 to ensure statutory compliance governing the submission of ballot arguments and to further determine priority of the submitted ballot arguments.

SECTION 12. The special municipal election hereby called for June 5, 2018 shall be and is hereby ordered consolidated with the Statewide Direct Primary Election to be held within the City on said date, and within the territory affected by the consolidation, all as required by and pursuant to law; and the election precincts, polling places, and officers of election within the City of Merced for said municipal election hereby called shall be the same as those selected and designated by the Registrar of Voters of the County of Merced for said consolidated election and set forth in the notice of election officers and polling places for said consolidated election published or to be published by the County Clerk of said County, as required by law, to which notice reference is hereby specifically made for a designation of the precincts, polling places, and election officers of the municipal election

hereby called. The Board of Supervisors of said County will authorize the Registrar of Voters to canvass, or cause to be canvassed, the returns of said special municipal election with respect to the votes cast in the City of Merced and to certify the results to this City Council.

SECTION 13. Said special municipal election hereby called shall be held and conducted, and the votes thereat received and canvassed, and the return thereof made, and the result thereof ascertained and determined in accordance with the general election laws of the State of California, except as herein provided or as otherwise provided for in the City Charter.

SECTION 14. All persons qualified to vote at municipal elections in the City of Merced shall be qualified to vote at said special municipal election.

SECTION 15. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, and the election officers shall thereupon proceed to canvass the ballots cast thereat.

SECTION 16. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding regularly scheduled Statewide Direct Primary Elections.

SECTION 17. The City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 18. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 19. At the next regular meeting of this City Council occurring after the returns of said special municipal election have been canvassed by the Registrar of Voters of the County of Merced, and the certification of the results thereof to this City Council, or at a special meeting called thereafter for such purpose, this City Council shall cause to be spread upon its minutes a statement of the results of said special

municipal election as ascertained by said canvass.

SECTION 20. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the _____ day of _____ 2018, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:


Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:



City Attorney

EXHIBIT “A”

VOTE FOR ONE

MERCED COMMERCIAL CANNABIS BUSINESS TAX. Generating approximately \$1,000,000 annually locally to fund Merced Police, Fire, Parks, Recreation services such as 911 emergency response; neighborhood-based policing; fire/gang prevention services; skilled police officers and firefighters; and safe, clean parks; shall the City of Merced adopt an ordinance authorizing an annual commercial cannabis business tax of up to: \$25 per square foot of cultivation space, or 10% of gross receipts until ended by voters, with independent citizens oversight?	YES	(+)
	NO	(+)

EXHIBIT “B”

The Final Text of the Cannabis Tax Ordinance will be inserted here after City Council approval of final language.

EXHIBIT "B"

ORDINANCE NO. ____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MERCED, CALIFORNIA, ADDING CHAPTER 3.52 TO THE CITY OF MERCED MUNICIPAL CODE, APPROVING AND IMPLEMENTING A COMMERCIAL CANNABIS BUSINESS TAX

THE PEOPLE OF CITY OF MERCED ORDAIN:

SECTION 1. Special Tax.

The Commercial Cannabis Business Tax is enacted solely to raise revenue for specific governmental purposes for the City of Merced and not for purposes of regulation. All of the proceeds from the tax imposed by this Ordinance shall be used exclusively to fund local police and fire protection services and parks and recreation services and cannot be spent for any other purpose.

SECTION 2. Purpose.

To impose a tax on the privilege of cultivating, manufacturing, processing, storing, laboratory testing, labeling, packaging, transporting, distributing, delivering, or sale of adult-use or medicinal cannabis or adult-use or medicinal cannabis products by commercial cannabis businesses in the City of Merced. Only commercial cannabis businesses are liable for the tax. It is not a sales tax or other tax levied upon recreational cannabis users or medical marijuana patients, nor is it a tax on real property. These revenues will remain locally-controlled and are not subject to seizure by the State. All revenues are required to be spent in the City of Merced for local police and fire services and parks and recreation services.

SECTION 3. A new City of Merced Municipal Code Chapter 3.52 is hereby adopted to read:

COMMERCIAL CANNABIS BUSINESS TAX

- 3.52.100 Imposition of Tax.
- 3.52.200 Definitions.
- 3.52.300 Payment Obligation.
- 3.52.400 Remittance.
- 3.52.500 Payment of Tax Does Not Authorize Unlawful Business or Activity.
- 3.52.600 Modification, Repeal or Amendment.
- 3.52.700 Use of Tax Proceeds
- 3.52.800 Administration.

3.52.100 Imposition of Tax.

A. Tax on Commercial Cannabis Cultivation:

1. Every person engaged in commercial cannabis cultivation in the city limits of the City of Merced shall pay an annual commercial cannabis business tax of up to the greater of (i) \$25.00 per square foot of canopy area or (ii) 10% of gross receipts. The canopy area shall be the greater of (i) the maximum canopy square footage authorized by the State license issued to the

commercial cannabis business or (ii) the actual canopy area of the business. In no case shall the canopy square footage not utilized under a permit be deducted for the purpose of determining the tax.

2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis cultivation within the City of Merced city limits for different categories of commercial cannabis cultivation subject to the maximum rate established in subsection (A)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (A)(1).
3. Subject to modification by the City Council as set forth in this subsection (A), the initial rate of the annual commercial cannabis business tax for each person engaged in commercial cannabis cultivation shall, for each such business, be the greater of (i) \$7.00 per square foot of cultivation area or (ii) 4% of gross receipts.

B. Tax on Commercial Cannabis Nurseries:

1. Every person operating a commercial cannabis nursery in the city limits of the City of Merced shall pay an annual commercial cannabis business tax at a rate of up to \$4.00 per square foot of nursery area. The nursery area shall include all areas of the commercial business that contain cannabis plants in the immature stage as defined by the State.
2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis nurseries within the City of Merced city limits subject to the maximum rate established in subsection (B)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (B)(1).
3. Subject to modification by the City Council as set forth in this subsection (B), the initial rate of the annual commercial cannabis business tax for each person operating a commercial cannabis nursery shall be \$0.50 per square foot of nursery area

C. Tax on Commercial Cannabis Manufacturing:

1. Every person engaged in commercial cannabis manufacturing in the city limits of the City of Merced shall pay an annual commercial cannabis business tax at a rate of up to \$25.00 per square foot of manufacturing area.
2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis manufacturing within the City of Merced city limits subject to the maximum rate established in subsection (C)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (C)(1).

3. Subject to modification by the City Council as set forth in this subsection (C) the initial rate of the annual commercial cannabis business tax for each person engaged in commercial cannabis manufacturing shall be \$7.00 per square foot of manufacturing area.

D. Tax on Commercial Cannabis Distribution:

1. Every person engaged in commercial cannabis distribution in the city limits of the City of Merced shall pay an annual commercial cannabis business tax at a rate of up to the greater of (i) \$5.00 per square foot of building or (ii) 10% of gross receipts.
2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis distribution within the City of Merced city limits subject to the maximum rate established in subsection (D)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (D)(1).
3. Subject to modification by the City Council as set forth in this subsection (D) the initial rate of the annual commercial cannabis business tax for each person engaged in commercial cannabis distribution shall, for each such businesses, be the greater of (i) \$1.00 per square foot of distribution area annually or (ii) 2% of gross receipts. .

E. Tax on Commercial Cannabis Retailing:

1. Every person engaged in commercial cannabis retailing in the city limits of the City of Merced shall pay an annual commercial cannabis business tax at a rate of up to 10% on gross receipts for adult-use retail and a rate of up to 7% on gross receipts for medicinal retail.
2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis retailing within the City of Merced city limits subject to the maximum rate established in subsection (E)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (E)(1).
3. Subject to modification by the City Council as set forth in this subsection (E) the initial rate of the annual commercial cannabis business tax for each person engaged in commercial cannabis retailing shall be 4% of gross receipts for medicinal retail and 7% of gross receipts for adult-use retail.

F. Tax on Commercial Cannabis Testing:

1. Every person engaged in commercial cannabis testing in the city limits of the City of Merced shall pay an annual commercial cannabis business tax at a rate of up to \$1.00 per square foot of building area.

2. Notwithstanding the maximum tax rate established by this chapter, the City Council may at its discretion, at any time by resolution, implement a lower tax rate for all persons engaged in commercial cannabis testing within the City of Merced city limits subject to the maximum rate established in subsection (F)(1). The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate established in subsection (F)(1).
3. Subject to modification by the City Council as set forth in this subsection (F) the initial rate of the annual commercial cannabis business tax for each person engaged in commercial cannabis testing shall be \$0.25 per square foot of building area.

3.52.200 Definitions.

For the purposes of this Chapter.

A. "Business tax" or "Commercial Cannabis Business Tax" means the tax due pursuant to this Chapter for engaging in lawful commercial cannabis business in the City of Merced.

B. "Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis Indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

C. "Canopy Area" means all premises that contains mature plants at any point in time; including all of the space within the boundaries. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

D. "Commercial Cannabis Business" means any commercial business activity relating to cannabis, including but not limited to cultivating, manufacturing, processing, storing, laboratory testing, labeling, packaging, transporting, distributing, delivering, or sale of cannabis, medicinal cannabis or a cannabis or medicinal cannabis product, except as related Business and Professions Code Section 19319, and as they may be amended or Health and Safety Code Sections 11362.1 through 11362.45 and as they may be amended.

E. "Commercial Cannabis Cultivation" means any activity, other than a Cannabis Nursery as defined in subsection H, involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for non-personal use.

F. "Commercial Cannabis Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the Medical and Adult Use

of Cannabis Regulation and Safety Act and any subsequent State of California legislation regarding the same.

G. "Commercial Cannabis Manufacturing" means any aspect of the cannabis extraction and infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Cannabis manufacturing also includes any processing, preparing, holding, or storing of components and ingredients. Cannabis Manufacturing does not include Cannabis Distribution or Cultivation.

H. "Commercial Cannabis Nursery" means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis for non-personal use.

I. "Commercial Cannabis Retailing " means business, other than a business all of whose sales constitute Cannabis Distribution, where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for sale, including an establishment that delivers cannabis or cannabis products as part of a sale.

1. "Adult-Use Cannabis Retailing" means any Commercial Cannabis Retailing that does not qualify as Medicinal Cannabis Retailing, such as sales intended for adults 21 years of age and over and who do not possess a physician's recommendation.
2. "Medicinal Cannabis Retailing" means the sale of cannabis or cannabis products that are intended for cannabis patients who possess a physician's recommendation for the use of cannabis.

J. "Commercial Cannabis Testing" means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

K. "Cultivation area" means all portions of the premises deducting therefrom driveways, sidewalks, landscaping, manufacturing area, nursery area, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial cannabis business (such as a janitorial closet).

L. "Gross receipts" means the total amount actually received or receivable from all cannabis sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit is allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares, or merchandise; and discounts, rents, royalties, fees, commissions, dividends, and gains realized. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of the material used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

M. "Manufacturing area" means the entire premises utilized for production, preparation, propagation, storage or compounding of manufactured cannabis or cannabis products, directly or indirectly, by extraction methods deducting for non-production portions of the premises, such as space used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial cannabis business (such as a janitorial closet).

N. "Nursery area" means the entire premises utilized for production of clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis deducting for non-production portions of the premises, such as space used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial cannabis business (such as a janitorial closet).

O. "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

3.52.300 Payment Obligation.

Except to the extent such tax is prohibited under state or federal law, any entity subject to this chapter must pay the tax rate set pursuant to this chapter. Failure to pay the taxes required by this Section within thirty (30) days after the due date shall be subject to the following penalties:

- A. A penalty in the sum equal to twenty-five percent (25%) of the total amount due; and
- B. If the tax remains unpaid, an additional penalty equal to ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid.

3.52.400 Remittance.

The taxes imposed by this chapter are annual taxes payable in quarterly installments. The tax year for purposes of this chapter runs from January 1 through December 31 of each calendar year. No later than the last day of the month following the end of each calendar quarter (for example, no later than April 30 for the quarter running from January 1 through March 31), each taxpayer shall remit to the quarterly installment.

Where a tax is based on a flat rate per square foot area, the quarterly installment shall be no less than the amount calculated by multiplying the relevant square footage by one-quarter of the relevant annual tax rate. This tax shall not be prorated for square footage only used or permitted for a portion of the quarter, or for a business that was in operation during only a portion of the quarter.

Where a tax is based on a percentage of gross receipts, the quarterly installment shall be no less than the amount calculated by applying the relevant tax rate to the paid based on the actual gross receipts for the quarter.

Where a tax is based on a combination of flat rate per square foot of area and percentage of gross receipts, the quarterly installment shall be no less than the greater of the amounts set forth in the prior two paragraphs.

No later than January 31 of each year, each taxpayer shall file with the city their final tax statement with respect to all commercial cannabis business activities during the prior calendar year. If the total of all installment payments made for the tax year is less than the final annual tax due, the difference shall be remitted to the city along with the tax statement. If the total of all installment payments exceeds the final annual tax due, then the excess payment shall be applied as a credit against the subsequent year's installment payments.

Any quarterly installment or final tax payment that is not timely made shall be subject to the penalties set forth in Section 3.52.300.

The taxes imposed by this chapter shall be remitted directly to the City quarterly as set forth in this Chapter. Each business shall pay on or before the last day of the month following the close of each calendar quarter, the minimum amount due if square footage versus gross receipts is applicable, and at the end of the fiscal year, any amount owed greater than the amount paid is due and shall be paid on or before the last day of the month following the close of the calendar year. All other gross receipts or square footage tax is due and payable at the end of each quarter. Nothing in this Chapter shall be interpreted to excuse any person from any obligation under any other provision of the municipal code; including, but not limited to, provisions of the code relating to business licensing and business license taxes.

3.52.500 Payment of Tax Does Not Authorize Unlawful Business or Activity.

The payment of any commercial cannabis business tax required under the provisions of this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal matter. Nothing in this section implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless authorized by California and Federal Law. Nothing in this section shall be applied or construed as authorizing the sale of cannabis.

3.52.600 Modification, Repeal or Amendment.

The voters expressly authorize the City Council to amend, modify, change, revise, or appeal any provision in this Chapter as the City Council deems in the best interest of the City without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment to Section 3.52.100 that would increase the rate of any Tax levied pursuant to this Chapter above the maximum rates established by this Chapter or to change the services funded by the tax.

The City Council may impose any tax authorized by this Chapter at a lower rate and may establish exemptions, or other reductions as otherwise permitted under state and federal law. No action by the Council under this Section shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction, and restoring the maximum tax rates specified in this Chapter.

3.52.700 Use of Tax Proceeds

Proceeds of the tax shall be deposited in a special fund and available only for expenditures on local police and fire protection services and parks and recreation services, and not for any other purpose.

3.52.700 Administration.

A. The City Manager or the City Manager's designee shall promulgate rules, regulations, and procedures to implement and administer this Chapter to ensure the efficient and timely collection of the tax imposed by this Chapter.

B. The City shall engage an annual audit of all proceeds raised by this measure. Such audit may be combined with any other independent audit engaged by the City.

C. The City shall cause a report to be filed annually as required by Government Code section 50075.3

D. An independent Citizens' Oversight Committee shall be formed to review the revenues and expenditures generated and spent. Said Committee shall consist of six (6) members, one (1) from each of the six City Council Districts, plus 1 at-large member from any area of the City, as long as all members are City residents. Nominees shall be appointed by the City Council. Elected officials at any level of government and employees of the City are ineligible to serve as members of the Committee. Members so appointed shall serve without compensation for a term of four (4) years.

The Committee shall meet quarterly but not less than once per year to review the revenues and expenditures generated and spent under this Chapter, and provide its findings to the City Council at least once a year prior to budget adoption. Unless modified by City Council Resolution, the Committee shall not have any function, power, or authority other than those expressly provided herein. In no event shall a failure of the City Council or the Citizens' Oversight Committee to take an action required by this Section 5.52.700(E) invalidate any tax collected under this Chapter; however, any court of competent jurisdiction may issue an order to the City compelling the City to comply with this Section.

SECTION 4. This Ordinance shall become effective upon adoption by two-thirds majority of the voters casting votes at the special election on June 5, 2018.

SECTION 5. The City Clerk shall publish this ordinance as required by applicable law. Upon approval by the voters, the City Clerk shall certify the passage of this ordinance by the voters, and cause the ordinance to be codified in the City of Merced Municipal Code.

PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF MERCED AT THE SPECIAL MUNICIPAL ELECTION HELD THE ____ DAY OF _____, 2018, by the following vote tally:

YES:

NOES:

OTHER:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM

Velly Tomchen 2/14/18
City Attorney